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TAGS: CE MOPS PGOV PHUM PREF PREL  
SUBJECT: SRI LANKA: S/WCI AMB. WILLIAMSON'S GENEVA MEETINGS

Classified By: Peter F. Mulrean, RMA Counselor, Reasons 1.4 b and d.

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Summary  
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¶1. (C) S/WCI Amb. Williamson met with representatives of ICRC, OHCHR and UNHCR July 9 to discuss the recent conflict in Sri Lanka in relation to a Congressional reporting requirement in recent supplemental funding legislation. His interlocutors presented a complex picture of what had happened on the ground during and since the conflict. ICRC stated that, while clear violations of International Humanitarian Law (IHL) had occurred, Sri Lankan forces had also made efforts to limit civilian casualties. Likewise, LTTE's mixing with civilians was to be condemned, but it remained difficult to define exactly when such mixing constitutes the use of human shields. ICRC was damning of the GSL's restrictions on humanitarian relief, which cost countless lives for no apparent reason. The GSL has asked ICRC to wrap up its operations in Sri Lankan. ICRC is accommodating by shutting some sub-offices, but hopes to stay on the ground, as it believes its conflict-related work is far from done. OHCHR sees the Congressional call for reporting as positive high-level attention to credible accusations of breaches of humanitarian and human rights law.

It is calling for an international investigation of these accusations, but is facing resistance from other UN agencies that need the cooperation of the GSL to carry out activities on the ground. UNHCR is focused on the current situation in the IDP camps, as well as the need to prepare for returns of IDPs. Conditions in the camps are improving, but remain unacceptable. UNHCR is concerned that the GSL could force IDPs to return home or to other locations. Its experience two years ago with the GSL on the displacement and return of 200,000 people in the east was relatively positive, though UNHCR believes the challenges of returning an even larger group to the north will be much greater. End summary.

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Overview of Congressional Requirement  
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¶2. (SBU) S/WCI Amb. Clint Williamson met July 9 in separate meetings with Jacque de Maio, ICRC Head of Operations for South Asia, Kwang-wha Kang, UN Deputy High Commissioner for Human Rights and Pascale Moreau, UNHCR Acting Director for Asia. He was accompanied by S/WCI Shaun Coughlin, RMA Counselor and PSA Counselor. In all the meetings, Amb. Williamson outlined the Congressional language attached to the recent supplemental funding legislation requiring the Secretary to report back within 45 days on reports of war crimes during the recent fighting in Sri Lanka, including to the extent possible, identification of perpetrators of such crimes. Williamson noted that the USG had limited access to the conflict zone and therefore it will be extremely

difficult to present conclusive evidence about exactly what happened during the conflict, let alone who was responsible. Therefore, the Department would have to rely in large part on reports from open sources, NGOs, and International Organizations that were on the ground or otherwise active on Sri Lanka during the fighting. Looking at the two sides in the conflict (Sri Lankan military and the LTTE), Williamson said that the most obvious areas of focus would be the LTTE's reported use of human shields and child labor, as well as alleged executions of civilians attempting to flee the conflict zone. For the GSL, the focus would be on the potential disproportionate use of force and reports of disappearances of individuals during the screening of the population in the north.

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ICRC - Violations of IHL, but in a Complex Environment  
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¶3. (C) Jacques de Maio, ICRC's Head of Operations for South Asia, began by stating that, because of ICRC's strict confidentiality rules, he would be unable to share any specific information regarding allegations of crimes by either side, nor would he be able to direct Williamson to sources. That said, de Maio engaged in a lengthy discussion of the conflict and offered a nuanced view of the complex situation on the ground. For example, he said that the Sri Lankan military was somewhat responsive to accusations of violations of International Humanitarian Law (IHL) and was open to adapting its actions to reduce casualties, but only to the extent that this would not undermine its overriding military objective - to destroy the LTTE. The army was determined not to let the LTTE escape from its shrinking territory, even though this meant the civilians being kept hostage by the LTTE were at increasing risk. So, de Maio said, while one could safely say that there were "serious, widespread violations of IHL," by the Sri Lankan forces, it did not amount to genocide. He could site examples of where the army had stopped shelling when ICRC informed them it was killing civilians. In fact, the army actually could have won the military battle faster with higher civilian casualties, yet chosen a slower approach which led to a greater number of Sri Lankan military deaths. He concluded however, by asserting that the GSL failed to recognize its obligation to protect civilians despite the approach leading to higher military casualties. From his standpoint, a soldier at war should be more likely to die than a civilian.

¶4. (C) De Maio was more critical of the GSL's restrictions on humanitarian access and relief during the conflict. There was no good reason not to let certain types of materials, such as blood bags, be delivered to Vanni during the conflict, where ICRC was treating victims. He had stopped counting the number of children who died because no blood was available, for example. Regarding disappearances, he said that there has been a long tradition of arrests and disappearances in Sri Lanka by people in civilian clothing. While ICRC has knowledge about a certain number of cases, most appear to be people abducted/arrested by either Tamil auxiliary forces or local authorities, not under order from central authorities, but connected to local political circumstances. On the other hand, there appears to have been no pattern of systematic disappearances during the GSL's screening of the population that fled the fighting. De Maio explained that ICRC has a fairly good network of people to whom family members report arrests/disappearances. In the cases of those who seem to disappear during screening, most of them turn up within days, and were three to five times more likely to be found if they received a report within twenty-four hours of disappearance. He believed that many incidents were driven by the GSL view that all civilians coming out of the Vanni were presumed guilty by the government. ICRC has been visiting regularly 11,400 people arrested and interned in 10 camps as suspected LTTE fighters.

¶5. (C) On the LTTE, de Maio said that it had tried to keep civilians in the middle of a permanent state of violence. It saw the civilian population as a "protective asset" and kept

its fighters embedded amongst them. De Maio said that the LTTE commanders' objective was to keep the distinction between civilian and military assets blurred. They would often respond positively when ICRC complained to the LTTE about stationing weapons at a hospital, for example. The LTTE would move the assets away, but as they were constantly shifting these assets, they might just show up in another unacceptable place shortly thereafter. De Maio said it would be hard to state that there was a systematic order to LTTE fighters to stick with civilians in order to draw fire. Civilians were indeed under "physical coercion not to go here or there," he said. Thus, the dynamics of the conflict were that civilians were present all the time. This makes it very difficult to determine though at what point such a situation becomes a case of "human shields."

¶6. (C) Finally, de Maio said that ICRC had received a pretty straightforward message from DefMin Gotabaya Rajapaksa that it was time for ICRC to wrap up its operations in Sri Lanka. ICRC is a conflict organization according to Rajapaksa, and now that the conflict is over Sri Lanka sees ICRC as "a stain on the white page of the post-conflict period." De Maio said others in the GSL have suggested that if ICRC leaves and then comes back as part of a post-conflict approach under a new memorandum of understanding, this might be acceptable. De Maio stated that ICRC is trying to sound accommodating and will pull out of its three eastern sub-offices, where its work was mostly done. ICRC does not want to close up shop completely, however, so it is telling the GSL it will scale back in the hope it will be allowed to stay, as it sees many elements of its core conflict mandate still at play, including war wounded, IDPs, family tracing and detainees. De Maio asked the USG to consider weighing in on ICRC's behalf, letting the GSL know that how this plays out will be a factor in the US approach to a post-conflict Sri Lanka. Amb. Williamson promised to raise this with A/S Blake upon his return to Washington.

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OHCRC - Strong Support, but no Details  
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¶7. (C) Kyung-wha Kang, UN Deputy High Commissioner for Human Rights strongly supported the Congressional request for reporting on Sri Lanka, seeing it as a sign of high-level attention to these issues. She noted that High Commissioner Pillay has publicly called for an international investigation of what seem like credible accusations of violations of humanitarian and human rights law. Within the UN system, Kang said that Pillay has faced serious opposition to this approach. Other UN agencies see the need to get things done on the ground (e.g. humanitarian and recovery assistance) as the priority and fear that Pillay's approach will make the GSL reticent to cooperate. Kang lamented that the GSL has "an absolute deaf ear," on questions of human rights, particularly when it comes to any international dimension.

¶8. (C) Kang said that the Office of the High Commissioner for Human Rights (OHCHR) would be unlikely to be able to help in sharing any information with Amb. Williamson. There is one OHCHR rep in Colombo who is in a very difficult situation and is restricted in her maneuvering room. Kang said that OHCHR is overwhelmed with information sent in from various interest groups, but their veracity was very hard to judge. She thought that over time, ground-level testimony would emerge and would be the key to determining what had really happened.

Williamson asked that OHCRC share whatever information it could and Kang promised to look into what might be possible.

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UNHCR - Focus on Relief and Returns  
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¶9. (C) Pascale Moreau, UNHCR's Acting Director for Asia, stressed that UNHCR had no one on the ground in the areas of conflict and has not been allowed full access to interview IDPs, so it has no primary source information on what happened during the conflict. Her discussion with Amb.

Williamson focused more on the current status of IDP camps and the expectations for the return home or relocation of the civilians there. On screening, Moreau said that UNHCR had recently gotten access to the Omanthai crossing point, where it was allowed to oversee the general process, but did not have direct access to the individuals. Moreau stated that it was not easy to draw any conclusions, positive or negative, about Omanthai in terms of disappearances, but she stressed that this was somewhat academic in any case. Most of the IDPs have already been screened at Kilinochi, where there is no international oversight, before moving on to Omanthai. Two key humanitarian concerns for both the screening centers and the IDP camps was the extensive problem of family separation, including large numbers of children, and reports of sexual and gender-based violence. She suggested that Amb. Williamson speak with UNICEF, which has been looking into the plight of these children. On violence against women, Moreau indicated that in part this stemmed from the high incidence of separated females or female-headed households among IDPs.

When asked why the GSL was not pursuing family reunification more vigorously, Moreau stated that it is not the GSL's highest priority just after the conflict and that such an effort is logistically very difficult. Two other key areas of concern are pushing the GSL to decongest camps and making an internal UNHCR decision on how best to balance providing for the living needs of IDPs in terms of housing and sanitation while simultaneously not enabling the GSL to create permanent camps.

¶10. (C) Moreau reported that the GSL was removing suspected LTTE fighters from the IDP camps and interning them in 10 different locations. She noted that removing suspected fighters from camps is common and even welcome, as long as the authorities follow national law in providing those arrested with adequate protections, which in the case of Sri Lanka law is fairly robust. Unfortunately, Moreau said that the law was not being respected. 9,400 individuals had been taken from IDP camps to 10 internment centers in Vanuviya, including at least one exclusively for children suspected of being child soldiers. (Comment: These are the same 10 camps mentioned by ICRC. The discrepancy in the number of IDPs comes from the approximately 2,000 detainees who were not taken from IDP camps. End comment.)

¶11. (C) As to the overall situation in the camps, Moreau said that conditions were improving, though still unacceptable. In Manik Farms, the military had been removed to the perimeter and some were replaced by local police, which was a positive step that still needed to be improved upon. 6,400 IDPs have been released from camps and another 9,000 have been cleared, but shelter and assistance needs to be found for them, as they cannot yet go home. Her biggest concerns on the horizon were information for the IDPs and the possibility of forced returns. On information, she said the IDPs, greatest anguish comes from not knowing the fate of family and loved ones and not knowing what lies in their future. The GSL needs to make a greater effort to treat the IDPs like participants in the process. On forced returns, she said that there have been some cases that UNHCR has protested to the GSL, but for now there has been no systematic policy of forcing people to move. Moreau concluded that, in the past, the Ministry of Human Rights Displacement had been a positive player in resisting forced returns.

¶12. (C) Moreau reviewed the fairly positive experience two years ago when 200,000 people were displaced and then returned to the east. She said that the GSL had done a pretty good job in cleaning up the areas of conflict (including de-mining), putting local administration in place and getting some infrastructure and other recovery projects off the ground. This gave the GSL a good model to use, though Moreau expected that the challenges in the north would be even greater, and thus far the GSL's approach had been less accommodating. There were also reports that mining was much more extensive and the administrative and infrastructure needs (including schools and hospitals) were much greater in the north. Finally, she noted that it is not yet clear

whether the international humanitarian agencies will be asked to play any role in the return of IDPs. She stressed that the GSL wanted to maintain complete control of the process, both for security reasons, but also out of a sense of pride and desire to take care of its problems on its own.

¶13. (U) Ambassador Williamson has cleared this cable.

GRIFFITHS